

To: Daguiard, Robert[Daguiard.Robert@epa.gov]; Hull, George[Hull.George@epa.gov]; Abrams, Dan[Abrams.Dan@epa.gov]
From: Purchia, Liz
Sent: Wed 8/12/2015 4:20:01 PM
Subject: FW: Denver Post: Animas River lawsuit against EPA 'on the table,' Colorado AG says

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From: Mylott, Richard
Sent: Wednesday, August 12, 2015 12:14 PM
To: StClair, Christie; Purchia, Liz; Daguiard, Robert; Harrison, Melissa; Colaizzi, Jennifer C.; McClain-Vanderpool, Lisa; Jenkins, Laura Flynn; Smith, Paula; Ostrander, David; McGrath, Shaun; Williams, Laura; Stavnes, Sandra; Hestmark, Martin; Gray, David; Zito, Kelly; Myers, Craig; Card, Joan; Faulk, Libby; Wardell, Christopher; Williams, Caroline; Thomas, Deb
Subject: Denver Post: Animas River lawsuit against EPA 'on the table,' Colorado AG says

Updated Denver Post.

Animas River lawsuit against EPA 'on the table,' Colorado AG says

Cynthia Coffman says she will explore suit while meeting with her New Mexico, Utah counterparts

By Jesse Paul
The Denver Post

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● John Hickenlooper calls Animas River disaster "unacceptable"; EPA director headed to Durango

DURANGO — Colorado Attorney General Cynthia Coffman said Wednesday that a lawsuit against the Environmental Protection Agency is "certainly on the table" after a massive wastewater spill caused by the agency last week fouled the Animas River.

"I would hope that it would not be necessary," Coffman, a Republican, said. "The statements by the (EPA's administrator) indicate the EPA is accepting responsibility for the accident. The question is: What does that mean? What does accepting responsibility mean?"

Coffman talked about Colorado's legal response with The Denver Post as she prepared to meet with her counterparts from New Mexico, Democrat Hector Balderas, and Utah, Republican Sean Reyes.

Coffman said she already has been in contact with Balderas and Reyes over the phone.

"The federal government and the EPA have some immunity from legal action," Coffman said. "It depends on the circumstances. It is not impossible for a state to sue."

The attorneys general meeting comes as EPA chief Gina McCarthy is scheduled to visit Durango on Wednesday and Farmington, N.M., on Thursday. McCarthy on Tuesday said that her agency accepted "full responsibility" for the spill, and said the agency was "absolutely deeply sorry" and that it expects lawsuits.

Coffman says the attorneys general have also reached out to legal representation for the Navajo Nation and the Southern Utes, who are also in the path of the contaminated water.

"I expect EPA to hold itself to the same standards that it would hold a state or local government if we had this type of incident and certainly a private corporation if they had this type of toxic discharge," Coffman said.

"My concern is about accountability and making sure the EPA is held responsible," she added.

Many residents in the path of the toxic spill have called for legal action against the EPA, including business impacted when the river they rely on was closed by authorities.

"It's a crime scene," Ginny Brown, who has lived in Durango for more than two decades, said Tuesday near the Animas' banks.

Three million gallons of mine wastewater spilled into Cement Creek then onto the Animas River on Aug. 5 after it was released by the EPA at the Gold King Mine near Silverton. It is one of many mine sites in the area that is releasing heavy metals into the river's flow.

In the spill's wake, a drumbeat of politicians throughout the southwest have come forward to lambast the EPA on its response and the dearth of information they've released.

Gov. John Hickenlooper on Tuesday in Durango said that while he was angered by the EPA's initial response to the spill, he is now looking forward to what can be done in the future.

Coffman said any potential legal action taken against the EPA would look at natural resource damages, costs of remediating the river and the surrounding land and any wildlife impacts.

"With heavy metal discharge like we're seeing, from a mine with arsenic, lead and copper and cadmium, my understanding is you don't often see the results in fish for two to three years," she said. "As heavy metals sink they become a part of the river and have a longer term impact."

Coffman said a claims process set forth by the EPA this week is a start, but it remains to be seen if it will be enough.

The EPA says McCarthy will speak to the media at 2 p.m. in Durango outside of a command post set up in the wastewater spill's aftermath.

McCarthy's media availability was announced Wednesday morning and was set for the same time as the three attorneys general were slated to speak at a previously scheduled news conference at a different location. A spokesman for Coffman said the attorneys general will now speak after McCarthy.

"We look forward to hearing what the director has to say," the spokesman said of McCarthy.

This is a developing story that will be updated.

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